

REMARKS/ARGUMENTS

This amendment is submitted in response to the Final Office Action dated October 5, 2004. Claims 1-37 are pending. Claim 22 has been amended to correct a typographical error. This Amendment is submitted in accordance with Rule 116 in an earnest effort to put the application in better condition for allowance. It is believed that Applicant's response has not amended the claims in a way that would raise new issues for consideration or that would require further searching of the prior art on the part of the Examiner.

The Examiner continues to reject claims 1-37 under 35 USC §102 (b) as being anticipated by Lemole et al. (US 6,009,410). Applicant respectfully disagrees.

In response to Applicant's argument that Lemole fails to teach or suggest "a method for integrating web photo-services for a browser-enabled device, the Examiner continues to argue that Lemole's system teaching a server communication with a device over a network, and associating images stored on an ISP site..., is indistinguishable from the present invention. To support this rejection, the Examiner seems to define a photo-sharing site as any site that serves images. This view is overly broad and much broader than the definition a photo-sharing site in the application (pg. 1, lines 16-24), which the Examiner has ignored. The Examiner indicates that a user can download any image and is free to share it. The plain meaning of the term "photo-sharing service" is an account that allows user to import/upload their photos into the service where they are accessible via the web (typically a browser) to other users. An ordinary web site that serves images does not meet this definition.

The Examiner also points out that Lemole teaches a movie company that advertises its motion pictures and so on, may be a user of the service of Lemole. The Examiner then states that nothing prevents a client from storing the image or sharing it once stored. However, Claim 1 recites, among other things, "receiving from the device an inventory of images stored on the

device” and “providing a list of the images associated with a user’s account to the web application, wherein the list of images includes an image reference for each image and an indication of whether each image is stored on the device or on the photo-service site”. LeMole does not describe any of these features.

First, all of the databases (112-115) from which LeMole’s image/banner advertising data is gathered to build the composite advertising page are coupled to the CAR server 111, and thus are external to the device 101. Accordingly, image/banner advertising data from these databases (112-115), even from the movie company, cannot be said to be “received from the device” as claim 1 requires. See Lemole, e.g., Col. 4, ll. 49-54, which states that “particular advertisers of products and/or services from among those product and/or service providers who subscribe to the service as advertisers are selected by CAR server 111 from an associated subscribing advertisers database 113 to dynamically create a composite advertising page”. Thus, the images or banners used to build the composite page are received from database 113, not from the device 101.

Second, the Examiner alternatively argues that the user terminal meets the limitation “receiving from the device an inventory of images stored on the device”, by asserting that LeMole teaches providing a profile page, such as that illustrated in FIG. 2, which includes an “icon for images”. The Office asserts that this icon suggests that the client may provide images via the profile as part of the registration process. However, the Examiner fails to explain what motivation a list of images would play in a user’s advertising profile or how images might play a role in defining a profile. Because LeMole never once describes the icon’s purpose, it is difficult to know what the purpose is. Lemole at Col. 4 lines 35t, describes a user profile as a collection of demographic information and user interests. What role images could play is not described or suggested by LeMole or the Examiner.

At any rate, the icons in FIG. 2, including the “Images” icon, are clearly part of a Web browser, and not a web application provided to the device, as required by step (d) of claim 1. One possibility for the “image” icon is that it is used by Browsers, such as Internet Explorer and Netscape, to display downloaded images when a user has turned off the Browser’s capability to automatically download images to improve response time. It is submitted that the “images” icon has nothing whatsoever to do with the uploading of an inventory of images from the device (on which the Browser is running) to a server as the Examiner suggests. The Examiner contends that the images icon shown with the profile “suggests” that the client may provide images as part of the profile. Applicant counters that the standard under §102 is that a reference “teach” the claimed limitation, not “suggest”, as the Examiner asserts.

It follows from the above that if an inventory of images stored on the device is not received, there can be no “indication of whether each image is stored on the device or on the photo-service site” in the recited list of the images associated with a user’s account, as claim 1 also requires. Indeed, since all of the images in LeMole’s arrangement are gathered from database 113, such an indication would be redundant and unnecessary.

Finally, the Examiner completely failed to reply with Applicant’s previous argument with respect claim 1, step (e).

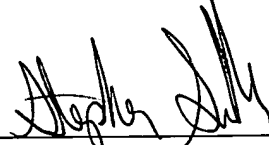
The above arguments apply with full force and effect to independent claims 12, 22, and 28.

In view of the foregoing, it is submitted that claims 1-37 are allowable over the cited references. Because the secondary references stand or fall with the primary references, claims are allowable because they are dependent upon the allowable independent claims. Accordingly, Applicant respectfully requests reconsideration and passage to issue of claims 1-37 as now presented.

Applicant's attorney believes that this application is in condition for allowance. Should any unresolved issues remain, Examiner is invited to call Applicant's attorney at the telephone number indicated below.

Respectfully submitted,

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Date